

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6697

Investigation into Petition of Vermont     )  
Department of Public Service for a         )  
Universal Service Fund Charge for         )  
Fiscal Year 2003                                 )

Order entered: 7/10/2002

**I. INTRODUCTION**

In accordance with 30 V.S.A. § 7523, the Vermont Public Service Board ("Board") must establish the Universal Service Fund ("USF") surcharge rate for fiscal year 2003 (July 1, 2002, through June 30, 2003, "Fiscal 2003"). After consideration of the stipulation of the parties and testimony filed by the Vermont Department of Public Service ("Department" or "DPS"), I recommend that the Board adopt the terms of the stipulation and set the Universal Service Fund surcharge for Fiscal 2003 at 1.20 percent. This rate is a reduction from the Fiscal 2002 rate of 1.65 percent. Projections indicate that a surcharge of 1.20 percent should be adequate to meet the funding obligations of the Vermont Universal Service Fund ("VUSF") programs for Fiscal 2003.

**Procedural History**

In accordance with 30 V.S.A. § 7523, the Department petitioned on April 15, 2002, to set a surcharge rate of 2 percent for the VUSF for Fiscal 2003. On June 17, 2002, the Department submitted testimony and exhibits modifying its recommendation to reflect a surcharge rate of 1.20 percent. The Board is required to enter an order setting the rate for the coming fiscal year by June 15<sup>th</sup>, unless the Vermont General Assembly does not enact an authorization amount for E-911 by May 15<sup>th</sup> of that year, in which case the Board may defer its decision until 30 days after the E-911 authorization is established. The Fiscal 2003 E-911 authorization was signed into law on June 21, 2002.

### Stipulation of the Parties

By Stipulation of June 17, 2002, the parties have agreed to set the VUSF charge at 1.20 percent. The parties have also stipulated that the Hearing Officer may make findings in this docket that are consistent with the parties' stipulation and the testimony of Department witness, Deena Frankel, and exhibits DPS-DLF-1 through DPS-DLF-5, filed with the Board on June 17, 2002, regarding the USF's carry-over fund balance from the previous fiscal year, the revenue base and disbursement requirements. The parties agree that the stipulation shall not have precedential effect on future proceedings involving the Department or the other parties. They also agree to other requirements regarding customer notification as described at Finding 20 and in the discussion of customer notification below.

## **II. FINDINGS**

This docket does not present any contested issues of fact. Based upon the stipulation of the parties and the prefiled testimony of the DPS, the Hearing Officer reports the following findings in accordance with 30 V.S.A. § 8.

### Carryforward Fund Balance

1. After estimated Fiscal 2002 distributions of \$5,665,528, the estimate of the fund balance that the VUSF carried forward on July 1, 2002, is \$1,472,338. Frankel pf. at 4; exh. DPS-DLF-4.
2. This amount is more than 27% greater than had been estimated when setting the Fiscal 2002 Universal Service Fund Surcharge rate of 1.65 percent. Docket 6499, Order of June 27, 2001.
3. In Fiscal 2002, expenses for Vermont's Telecommunications Relay Service ("VTRS"), and the Vermont Telephone Lifeline program and its administrative costs, were below budgeted levels. Frankel pf. at 4; exh. DPS-DLF-4.

## Disbursements

### Fiscal Agent<sup>1</sup>

4. The estimated cost for compensation of the fiscal agent from July 1, 2002, through June 30, 2003, is \$105,000. Additionally, \$25,000 is budgeted to pay the costs of the annual audit fee agreed upon as per the contract between NECA and the Vermont Public Service Board. Frankel pf. at 3; exh. DPS-DLF-1.

### Telecommunications Relay Service

5. Funds to support VTRS are distributed to the state treasurer, in an amount determined by the Commissioner of Public Service to be reasonable. 30 V.S.A. § 7512.

6. Funding of \$462, 823 is needed for VTRS for Fiscal 2003. This number is based on an analysis of current calling trends and projections by the program's vendor. The projected expenditure includes \$50,000 for outreach expenses, an increase of \$20,000 from budgetary levels of the prior two fiscal years. The \$50,000 will be included in a separate contract that has not yet been issued. Frankel pf. at 3; exhs. DPS-DLF-1 and 3.

7. In addition, \$75,000 of USF funds is allocated for a VT-EDP adaptive equipment distribution program associated with VTRS that is authorized by 30 V.S.A. § 218a(e). This program is administered through a Board-approved contract between the Department and a private vendor. Frankel pf. at 3; exh. DPS-DLF-1.

### Lifeline

8. Funds to support the Vermont Telephone Lifeline Program are distributed to telecommunications service providers that issue Lifeline credits to end-users. 30 V.S.A. § 7513.

9. The distribution of Lifeline credits for Fiscal 2003 is expected to be \$1,407,894. Frankel pf. at 3; exh. DPS-DLF-2.

10. This Lifeline credit distribution amount was derived by projecting enrollment trends in the Lifeline program. The amount also takes into account Lifeline credits reimbursed by the state fund, as well as the benefit of providing non-published numbers to Lifeline-eligible persons who have final court-granted relief from abuse orders. *Id.*

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<sup>1</sup> The National Exchange Carrier Association ("NECA") is currently the fiscal agent for the VUSF program.

11. The estimated Lifeline administrative cost reimbursement amount was set at \$150,000. The amount is based on trends year-to-date and the final results of FY-2001. Frankel pf. at 3; exh. DPS-DLF-1.

#### Enhanced 911

12. Funds to support Enhanced 911 ("E-911") services will be paid by the fiscal agent to the state treasurer for deposit into the E-911 special fund. 30 V.S.A. § 7514.

13. Total disbursements to the E-911 program will be \$3,213,811. This amount was derived from the Appropriations Act (H. 766), as passed by both houses of the 2002 General Assembly and signed by the Governor, that sets the amount to be transferred from the VUSF to E-911. Frankel pf. at 4; exh. DPS-DLF-1.

#### Total Program Disbursements

14. Total program disbursements for VUSF program obligations during Fiscal 2003 are projected to be \$5,439,528. Frankel pf. at 4; exh. DPS-DLF-1.

#### Revenues and Fund Balance

15. A revenue projection is provided by NECA annually based upon the current fiscal year's telecommunications revenues for all Vermont companies. The Fiscal 2003 figure calculated by NECA is \$401,209,254, a reduction of 0.6 percent compared to Fiscal 2002. *Id.*

16. The Department did not use the 0.6 percent reduction, but instead used a more conservative projection of a negative 2 percent. This conservative figure is reasonable in light of the recent Vermont job losses and their projected negative impact on the Vermont economy. Negative 2 percent growth will produce a projected Fiscal 2003 telecommunications revenue base of \$393,185,069. Frankel pf. at 4; exh. DPS-DLF-1.

17. Assessing the VSUF surcharge recommended in this testimony of 1.20 percent results in VUSF revenue of \$4,718,222. *Id.*

18. After applying the surplus carried forward from Fiscal 2002, the 1.20 percent surcharge for Fiscal 2003 will leave an estimated fund balance at the end of the fiscal year of \$751,030. Frankel pf. at 4-5.

19. This fund balance is appropriate and in keeping with the goal of carrying forward a small VUSF fund balance from year to year. This balance should be high enough to cover the largest historical deviation between the cash and accrual balances in order to ensure solvency from month to month and to provide a cushion for small deviations that must be assumed between projected and actual revenues and expenses. Frankel pf. at 5-6.

Customer Notification Requirements

20. The Stipulation contains the following customer notification requirements:

- a. Each telecommunications service provider shall provide a notice, describing the VUSF and the continuing rates in the first bill that includes the new USF charge for FY03. If, because of timing difficulties, a telecommunications provider is unable to send the notice with its first bill implementing the new rate, then the provider shall send it with its bills as soon as is feasible following the rate change;
- b. The VUSF notice will include information concerning the Vermont Telecommunications Relay Service and the Lifeline Telephone Program;
- c. The LECs will provide notification to consumers of the Lifeline Telephone Program eligibility criteria and application process during either of the first two months of calendar year 2003;<sup>2</sup> and
- d. The notices shall be in the form prescribed by the Department.

Frankel pf. at 6-7; Stipulation at ¶ 3.

21. The requirement for advance notice of changes in rates, terms, and conditions of service established by the final Order in Docket 5903 (to the extent it is applicable to the VUSF surcharge) does not apply to a decrease in rates. Docket 5903 Order of 7/2/99 at 44.

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<sup>2</sup> Notification during these months will be particularly important, in order to inform persons who may apply through the Tax Department's tax package issued early in January.

### III. DISCUSSION

#### Revenues and Disbursements

The table below reflects the proposed line item disbursements forecast for the VUSF in Fiscal 2003, along with the estimated starting and ending Fiscal 2002 fund balances, based on the stipulated 1.20 percent surcharge. In total, the projected disbursements for Fiscal 2003 are four percent below Fiscal 2002 forecasts, as estimated using actual disbursement levels for a portion of the fiscal year.<sup>3</sup> There are no disputes as to any of these figures.

Estimated Fiscal 2002 Carryforward Fund Balance	\$1,472,332
Projected Fiscal 2003 Surcharge Collections	<u>4,718,222</u>
Total Funds Projected to be Available	\$6,190,560
Projected Disbursements:	
Fiscal Agent Services	105,000
Annual Audit	25,000
Telecommunications Relay Service	462,823
Lifeline Credit Reimbursements	1,407,894
Lifeline Administration Expense	150,000
E-911 Appropriation	3,213,811
TTY Distribution Expense	<u>75,000</u>
Total Projected Disbursements	<u>\$5,439,528</u>
Projected Fiscal 2002 Carryforward Balance	\$751,032

As shown above, the proposed surcharge of 1.20 percent would produce revenues insufficient to cover total program costs. However, when supplemented with Fiscal 2002's year end carryforward balance of \$1,472,332, projected Fiscal 2003 VUSF revenues appear more than sufficient to meet estimated expenses and provide a reasonable cushion for unexpected events. In reaching this conclusion, we recognize that the Department has used a conservative negative 2.0 percent growth rate to forecast Fiscal 2003 telecommunications revenues. Certain cost assumptions also appear to be prudently conservative.

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3. See Findings 15 and 16, above.

Given these facts and conclusions, I conclude that the proposed VUSF Fiscal 2003 rate of 1.20 percent is appropriate.

Customer Notification Requirements

There is no dispute concerning the customer notification requirements. Informing customers of service opportunities ensures broad opportunity for program participation by all qualifying ratepayers. I recommend that the Board adopt and order these notification requirements.

The advance notice requirement imposed by the Board's final Order in Docket 5903 (to the extent that it applies to the VUSF surcharge) is not applicable to this decrease in rates. Docket 5903, Order of 7/2/99, at 44.

Opportunity to File Exceptions and Present Arguments

The parties have waived their opportunity to file exceptions and present arguments pursuant to 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 10<sup>th</sup> day of July, 2002.

s/Hope G. Crifo  
Hope G. Crifo  
Hearing Officer

#### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.
2. The Vermont Universal Service Fund ("VUSF") charge for Fiscal 2003 shall be 1.20 percent. This rate shall go into effect July 1, 2002, and remain in effect through June 30, 2003, unless revised in the manner provided by law.
3. Each telecommunications service provider required to collect the VUSF charge shall include a notice providing relevant information about the VUSF charge when it sends customers their first bill that includes the revised VUSF Charge, or if, because of timing difficulties, telecommunications providers are unable to send such notice with the first bill, they shall send it with their bills as soon as is feasible following the implementation of the VUSF change. Local exchange carriers shall also include in the VUSF notice information concerning the Vermont Telecommunications Relay Service and the Vermont Telephone Lifeline Program. In addition, local exchange carriers shall provide notification of the Lifeline eligibility criteria and application process during either of the first two months of calendar year 2003. All notices shall conform to the language contained in Attachment A to the Stipulation. If, after negotiation, a telecommunications service provider and the Vermont Department of Public Service cannot agree on the form of the notice, then the parties may petition the Board for resolution of the conflict.
4. The fiscal agent shall pay the following amounts for Fiscal 2003, and according to the following priority:
  - a. The fiscal agent shall transfer to its own account not more than \$130,000, but in no event shall transfer more than permitted under the contract between the Board and the fiscal agent.
  - b. The fiscal agent shall transfer to the State Treasurer, in monthly payments, the annual sum of \$462,823 to support the Vermont Telecommunications Relay Service and an additional \$75,000 for the VT-EDP adaptive equipment program associated with VTRS and carried about by an independent contractor.
  - c. The fiscal agent shall recognize legitimate claims from local exchange carriers for credits and reimbursable expenses under the Vermont Lifeline



program. It is anticipated that the annual total of all such claims will amount to \$1,557,894.

- d. The fiscal agent is authorized to make monthly transfers to the State Treasurer to support Enhanced 911 services at an annual rate of \$3, 213,811.

5. The Board shall retain jurisdiction over this docket to make any further orders that may be required to administer the Vermont Universal Service Fund. Hope Crifo is designated as Hearing Officer to consider and report upon any further proceedings that may be appropriate in this docket.

DATED at Montpelier, Vermont, this 10<sup>th</sup> day of July, 2002.

<u>s/Michael H. Dworkin</u>	)	
	)	
	)	
<u>s/David C. Coen</u>	)	PUBLIC SERVICE
	)	
	)	
<u>s/John D. Burke</u>	)	BOARD
	)	
	)	OF VERMONT

OFFICE OF THE CLERK

FILED: July 10, 2002

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*